IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.4123 of 2000

Dated: 08-06-2007

Between:

1. Sunkara Appala Naidu, s/o late Appanna and 12 others.

... Petitioners

and

1. The Mandal Revenue Officer, Padmanabham Mandal, Visakhapatnam District, Andhra Pradesh and another.

... Respondents

ORDER:

This case has a chequered history. One Sagi China Venkatapathi Raju, as hereditary trustee of Sriramachandreswaraswamy Varu of Kurapalli village, claimed that Narayana Gajapathi Maharajulugaru of Vizianagaram had granted the lease in question as service inam as early as in the year 1810 for maintenance of the said temple. In his capacity as landholder, the said Sagi China Venkatapathi Raju filed an application before the Settlement Officer for grant of ryotwari patta under Sections 12 and 15 of the Estate Abolition Act, 1948 (for short, 'the Act'). Some of the petitioners herein, who are in possession of the said lands, also filed an

application under Section 11 of the Act for grant of ryotwari pattas. The Settlement Officer rejected the application filed by Sagi China Venkatapathi Raju holding that the lands are ryoti in nature. Thereupon, the said Sagi China Venkatapathi Raju fought the litigation up to the Supreme Court, but was unsuccessful at every stage. The petitioners' contention is that they inherited the lands in question from their ancestors,
and the application submitted by them under Section 8 of the Act, for grant of ryotwari pattas before the Settlement Officer, is pending. But during the pendency of the said application, petitioners leased out a portion of the land to thirteenth petitioner and thirteenth petitioner started a unit for manufacturing of bricks. At that juncture, the first respondent – Mandal Revenue Officer issued notice, dated 05-02-2000, stating that the said lease is without permission,
as the rights of the said lands vests with the Government. Questioning the said notice, petitioners approached this Court and filed the present writ petition.

2. Heard learned counsel for the parties.

3. As already stated, this writ petition has a chequered history and the earlier litigation fought by Sagi China Venkatapathi Raju ended in dismissal and in fact, the finding given by all the authorities is to the effect that the lands are in possession of the tenants. When it is the specific finding that the lands are in possession of the tenants, it is not known as to how petitioners are claiming title over the lands as their ancestral property. In any way, as the application for grant of ryotwari pattas filed by the petitioners under Section 11 of the Act, is pending before the Settlement Officer, I deem it appropriate to dispose of the writ petition with a direction to the Settlement Officer to decide that issue as to whether petitioners are entitled for any ryotwari pattas as claimed. Further, it is only against the notice, dated 05-02-2000, issued by first respondent – Mandal Revenue Officer, petitioners

approached this Court and filed the present writ petition. Instead of approaching this Court and filing the present writ petition, petitioners ought to have stated the said circumstances to the Mandal Revenue Officer and made a request to defer it, pending disposal of their claim before the Settlement Officer.

4. Accordingly, the writ petition is disposed of with a direction to the Settlement Officer to decide the issue as to whether petitioners are entitled for ryotwari pattas or not, if it is pending. No costs.

Having regard to the fact that this Court on 17-07-2000 ordered that petitioners possession shall not be disturbed and they including thirteenth petitioner are hereby directed not to carry on any other operations except the agricultural operations, the same may be continued pending disposal of the claim petition.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.08-06-2007
GLV